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FEDERAL GOVERNMENT RELATIONS

OVERVIEW / INTRODUCTION

MPAA Federal Government Relations consists of four professionals and four support staff and is responsible for all industry issues relating to the Congress and Federal agencies. MPAA Federal Government Relations communicates with member companies primarily through the Federal Governmental Affairs Committee and member company Washington representatives. The majority of its activities involve copyright, trade, Internet and telecommunications issues in the legislative and regulatory arena. New digital technologies and media continue to present important new legislative and regulatory challenges to the motion picture industry, and MPAA is representing industry interests on such crucial matters as Advanced Digital Television, Digital Video Copying and Online Service Provider Copyright Liability.

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1998 ISSUES AND ACCOMPLISHMENTS

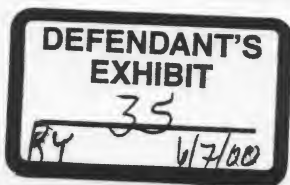
I. THE CONGRESS

MPAA actively monitors and works for or against legislation that would affect the motion picture industry. MPAA considers 1998 to be a very successful year, as several legislative initiatives became law. What many have called a do-nothing Congress indeed was quite active for MPAA and the copyright community as a whole.

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B. World Intellectual Property Organization Treaties & Implementation Legislation

The Digital Millennium Copyright Act, legislation to implement the 1996 WIPO Copyright Treaty and the WIPO Phonograms and Performances Treaty, passed the



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Congress and was signed into law by the President on October 28th 1998 (P.L. 105-304). The Treaties themselves were also ratified by the Senate. The implementing legislation provides civil and criminal remedies for circumvention of copy protection measures, and mandates that all analog VCR's respond to the Macrovision copy protection system. These measures will provide a necessary legal backup for existing and future copy control systems both analog and digital. Enactment of this legislation successfully concluded a four-year effort by MPAA and the copyright community to revise our copyright laws to meet our needs in the digital environment.

In addition to its anti-circumvention provisions, the WIPO legislation included new rules for determining when On-Line Service Providers are liable for the infringing acts of others. Although MPAA and other copyright groups did not initially support these provisions, by reducing the uncertainties of previous law, these provisions may have averted disastrous judicial rulings as happened in the cable retransmission decisions of the 1960s and the *Betamax* case of the 1980s.

With US ratification of the WIPO Treaties secured, MPAA then turned its attention to worldwide ratification and implementation of the Treaties. The U.S. is the first major industrial country to ratify the WIPO Treaties, and our implementing legislation establishes a template likely to be followed by other nations. Before the treaties can go into force, thirty nations must ratify each treaty. As of early December 1998, eight countries had ratified the Copyright Treaty, while six had ratified the Performances and Phonograms Treaty. The international copyright community, with MPAA leadership, has committed itself to ensuring that the Treaties go into force by January 1, 2000.

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II. THE EXECUTIVE BRANCH

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D. Intellectual Property

MPAA works closely with the Copyright Office and the Patent and Trademark Office on a variety of intellectual property issues, including administration of the cable and satellite compulsory licenses, legislation and negotiation of international treaties.

1. Copyright Office

MPAA prepared comments to the Copyright Office in opposition to proposals to base copyright registration fees on the "value" of the copyrighted material, and submitted preliminary comments on the copyright implications of on-line distance education on which the Copyright Office is required to prepare a report to Congress pursuant to the Digital Millenium Copyright Act. MPAA also worked with the Copyright Office and creative guilds on legislative language to ensure that residual obligations to creative artists are not abrogated by copyright transfers. This language ultimately was enacted as part of the Digital Millenium Copyright Act.

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III. DIGITAL VIDEO

MPAA continued its efforts to establish copy management capability in digital video media. These efforts included continued negotiations with the consumer electronics and computer industries regarding the administration of a Licensing Entity to assume the DVD copy control licensing functions now being performed by Matsushita and regarding procedures for upgrading the copy control technology. Establishment of the Licensing Entity has been long delayed for a variety of technical and legal reasons, but prospects are good for finalization within the first quarter of 1999.

MPAA also continued to provide support for the incorporation of copy management technology in cable, satellite and digital terrestrial transmission systems through a number of standard setting bodies. These efforts succeeded in establishing that copy management capability must be provided in all digital transmission systems that will carry high value content. Where the motion picture industry was engaged in legal and legislative battles in the 1980s over the issue of unauthorized video copying, MPAA is now working with its former adversaries to develop legal and technical tools to control copying of high value content in the 1990s.

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MAJOR CHALLENGES/OBJECTIVES FOR 1999

I. CONGRESS

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Because of the impeachment proceedings in the Senate and the highly charged partisan atmosphere that currently exists in the Congress generally, the legislative productivity of the 106th Congress is expected to be low. Nonetheless, there are some significant legislative issues MPAA will certainly confront in 1999, and several others that could arise. For the most part, MPAA will take defensive positions to prevent enactment of harmful legislation. The most significant issue on which MPAA might take a strong affirmative position is digital copy management. All of these issues are summarized below.

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F. Distance Learning

Issues related to distance learning, i.e. off-site, electronically transmitted, broadcast or packaged instruction, may arise again in the 106th Congress. During the WIPO debate, questions were raised and discussed but not fully resolved in this area. MPAA will continue to work to ensure fairness and strong protection of copyrighted works even in the institutes of higher learning.

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H. Digital Video Recording

It may be possible to reincarnate the copy management legislation agreed to several years ago between MPAA and the consumer electronics industry. That legislation would have required all digital recording devices to respond to copy management information in movies distributed on prerecorded media (e.g. DVD), and subscription television, pay-per-view (PPV) and video-on-demand (VOD) services.

This legislative initiative was derailed by the computer industry because of its refusal to accept any government imposed requirements on the design of interactive devices. MPAA, the consumer electronics industry and the computer industry then created a private licensing system to provide copy management capability to the emerging DVD technology. Although this private licensing system is in place and working with respect to DVD media, the ability to extend this system effectively to PPV and VOD delivery systems is problematic. Many in the consumer electronics industry, and even some significant computer companies, are again discussing the possibility of a legislative approach to digital copy management.

Because of significant technological advancements during the past several years, most importantly in the field of watermarking, it appears possible to craft legislation that would

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effectively provide for digital copy management without the length or complication of the previous effort.

If a consensus can be reached by a majority of the effected parties, MPAA may propose legislation to Congress that would build on the measures contained in the Digital Millenium Copyright Act (DMCA) with regard to analog copying. It would require all digital recording devices to respond to copy management information contained in watermarks. It would also include, at the insistence of the consumer electronics industry, provisions that would require copyright owners to permit copying from free television and basic cable services, and to permit a first generation copy from pay-per-channel services such as HBO. These terms were part of the original copy management agreement and were incorporated in the analog copy control provisions of the DMCA.

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C. Copyright Office and Patent and Trademark Office

MPAA will continue to advise the Copyright Office and Patent and Trademark Office on intellectual property issues of concern to the motion picture industry. In 1999 MPAA's activities before the PTO are expected to focus on the WIPO audiovisual performers rights treaty negotiations. At the Copyright Office, MPAA will actively participate in its distance education study as well as proceedings dealing with the functioning of Copyright Arbitration Royalty Panels and with increases in copyright registration fees.

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III. DIGITAL VIDEO

MPAA expects to finalize the DVD CSS Licensing Entity early in 1999 and to continue its efforts to incorporate effective copy management measures in digital media. Objectives for 1999 include adoption of effective copy management technology in cable, satellite and high definition television set-top-box standards; incorporation of copy management capability in the next generation of HDTV receivers; and finalization of an effective watermarking technology for copy management.

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